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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re

Amendment of Section 73.202(b))	MM Docket No. 97-169
Table of Assignments)	RM-9121
FM Broadcast Stations)	RM-9170
)	
(Coon Valley and Westby, Wisconsin))	
Lanesboro, Minnesota))	

To: Chief, Allocations Branch

COMMENTS ON COUNTERPROPOSAL

Sparta-Tomah Broadcasting Company, Inc., ("Sparta-Tomah"), petitioner in the above-referenced proceeding, and Greg Wennes ("Wennes") by their attorney, respectfully comment on the counterproposal, RM-9170, filed by Bluff Country Community Radio ("Bluff Country") on September 22, 1997. The Commission's Public Notice of this counterproposal, released October 16, 1997, invited interested parties to file comments on the proposal no later than 15 days after the date of Public Notice. Therefore, these comments are timely.

The Notice of Proposed Rule Making, DA 97-1598, ("NPRM") proposes allotting Channel 280A as a first local broadcast service at Coon Valley, Wisconsin. Bluff Country counterproposes that Channel 280A be allotted as a first local service at Westby, Wisconsin, and Lanesboro, Minnesota, and asks that these allotments in the commercial band be reserved for non-commercial use. Bluff Country states that its proposal is superior to that proposed in the NPRM because it would create two allotments serving a larger population than the single aural service pro-

24

posed in the NPRM.

It is Commission policy to ascertain the availability of additional channels which may resolve a potentially mutually exclusive rule making proceeding. Lawton, Oklahoma, 4 FCC Rcd 1807 (1989). Further, the Commission will not reserve a commercial channel for noncommercial educational use except where channels in the reserved portion of the FM band (Channels 201 to 220) are not available. Rosendale, New York 12 FCC Rcd 10020, ¶2 (1997) As shown by the attached engineering statement prepared by Evans Associates, reserved Channel 207 is available for Westby from the (proposed) reference coordinates of 43° 37' 57" and 90° 46' 13", and reserved Channel 203 is available for Lanesboro from the (proposed) reference coordinates of 44° 12' 00" and 98° 45' 20", fully consistent with the Commission's minimum distance separation requirements. Accordingly, Bluff Country may apply for a construction permit for these channels on FCC Form 340 pursuant to §73.509 of the Commission's rules. Consistent with Rosendale, there is no basis to reserve Channel 280A for non-commercial use at Westby or Lanesboro.

Moreover, as demonstrated by the engineering statement, Bluff Country's proposal for Channel 280A at Westby would not place the requisite 3.16 mV/m contour over the entire proposed community and, therefore, is not a suitable proposal for allotment purposes. In addition, Bluff Country states that its proposal for Westby and Lanesboro would serve a "larger number of people" than the Coon Valley proposal. This statement is mis-

leading. While the combined population of the individual communities of Westby and Lanesboro exceeds that of Coon Valley, the attached engineering shows that 113,442 people reside within the 1.0 mV/m service area for the proposed Coon Valley allotment; 27,785 people reside within the 1.0 mV/m service area for the proposed Westby allotment; and, 25,287 people reside within the 1.0 mV/m service area for the proposed Lanesboro allotment. Therefore, it is clear that the Coon Valley allotment will serve over twice as many people in the aggregate.

When contemplating reserving a commercial channel for educational noncommercial use, the Commission will seek public comment on such a proposal. See, e.g, Rosendale, New York, Id. You are hereby advised that Wennes would like Channel 280A to remain available for allotment as a commercial frequency. As indicated by the attached engineering, Channel 280A may be allotted as a first local service to Eyota, Minnesota, with a site restriction 13.8 km west of the city. Eyota is an incorporated community of 1,448 people on U.S. Highway 14 in southeast Minnesota. It has its own elected government, zip code, churches, a fire department and an assortment of other businesses and services commensurate with a community of its size.

If Channel 280A remains available for Eyota as a commercial facility, Wennes will prepare and file the necessary Petition for Rule Making seeking allotment of that channel to the community. Should Channel 280A be allotted to Eyota, Mr. Wennes will prepare and file a construction permit application for said allotment

and, if granted, promptly construct and operate the authorized facilities.

Sparta-Tomah's proposal will create an efficient and preferential arrangement of allotments. Upon finalization of this proceeding and amendment of Section 73.202(b) of the rules as proposed, Sparta-Tomah will promptly prepare and file an appropriate application for the upgraded facility. Upon grant of said application, Sparta-Tomah will diligently pursue the construction thereof and begin operating with the new facilities as quickly as possible.

Bluff Country's proposal for Westby may not be granted because it fails to provide sufficient city-grade service to the community as required by the Commission's rules. Moreover, there are noncommercial educational channels available for Westby and Lanesboro which address Bluff Country's preferred operation as a noncommercial educational service. If Channel 280A is retained for commercial service Greg Wennes has stated his intent to petition to allot the channel at Eyota and pursue the assignment should the allotment be granted. Accordingly, Channel 280A should be allotted to Coon Valley as proposed.

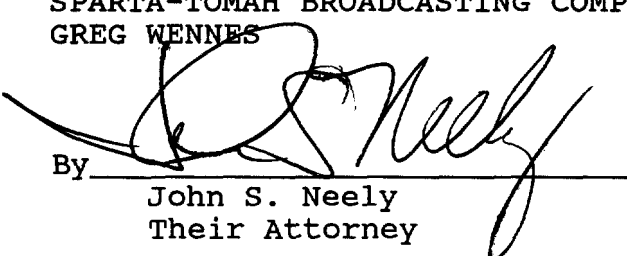
Respectfully Submitted,

SPARTA-TOMAH BROADCASTING COMPANY, INC.
GREG WENNES

October 31, 1997

Miller & Miller, P.C.
P.O. Box 33003
Washington, DC 20033

By


John S. Neely
Their Attorney



ENGINEERING EXHIBIT

**COMMENTS IN SUPPORT OF A PROPOSED RULE MAKING BY
SPARTA-TOMAH BROADCASTING COMPANY, INC.**

MM DOCKET 97-169

OCTOBER 1997

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ENGINEERING STATEMENT

This Engineering Statement and attached exhibits have been prepared on behalf of Sparta-Tomah Broadcasting Company, Inc., by B. Benjamin Evans, P.E. of Evans Associates, Consulting Communications Engineers in Thiensville, Wisconsin. This engineering exhibit is in support of Sparta-Tomah Broadcasting's petition for rule making to assign FM Channel 280A to Coon Valley, Wisconsin (MM Docket 97-169), which is mutually-exclusive with a petition by Bluff Country Community Radio to assign Channel 280A to both Westby, Wisconsin and to Lanesboro, Minnesota as non-commercial assignments.

As will be shown herein, Channel 280A can be assigned to Eyota, Minnesota, in lieu of Lanesboro, which would permit the use of Channel 280A at Coon Valley, Wisconsin.

This affiant has examined the petition for rule making filed by Bluff Country Community Radio to determine whether the representations made in its engineering exhibit are accurate. This affiant has also made a comparison of populations served, between the Coon Valley and Eyota scenario, and that of Westby and Lanesboro.

THE WESTBY PROPOSAL WOULD NOT COMPLY WITH THE CITY OF LICENSE COVERAGE REQUIREMENT

Using the contour prediction methods contained in Section 73.313 of the FCC Rules, this affiant has determined that a full Class A facility located at Bluff Country's proposed allotment coordinates (43° 37' 30" N., 90° 41' 50" W.) would not place a predicted 3.16 mV/m signal (70 dBu) over the entire city of Westby, as required by FCC rules in a proposed rule making for a new FM assignment. As shown in the attached Figure 1, only about 37% of Westby would be encompassed by the 3.16 mV/m contour.

THERE ARE RESERVED EDUCATIONAL FREQUENCIES AVAILABLE IN BOTH WESTBY AND LANESBORO

Bluff Country proposes to assign Channel 280A as non-commercial educational assignments in both Westby and Lanesboro. In its petition, Bluff Country claims that



*Engineering Statement - Page 2
Sparta-Tomah Broadcasting Company, Inc.*

there are no reserved non-commercial educational frequencies (88.1 through 91.9 MHz) available in Westby or Lanesboro. This is not true. This affiant has conducted reserved frequency searches for both communities, and has determined that available reserved non-commercial frequencies exist in both Westby and Lanesboro in accordance with Section 73.509 of the FCC rules.

In Westby, Channel 207 (89.3 MHz) can be assigned with full Class A facilities of 6.0 KW ERP and 100 meters antenna HAAT, if the transmitter is located east of Westby. The coordinates of an assumed site for which a full Class A facility on Channel 207 would fit are: 43° 37' 57" N., 90° 46' 13" W. Attached as Figure 2 is an allocation map showing that there would be no overlap with any existing FM assignments caused by such a facility at these coordinates. From the center of Westby, this site is only 7.1 kilometers on a bearing of 106.1° True, closer to Westby than Bluff Country's proposed Channel 280A allotment site. Thus, a facility on Channel 207 would serve Westby with a predicted 3.16 mV/m signal.

In Lanesboro, Channel 203 (88.5 MHz) can be assigned, also with full Class A facilities, using a transmitter site northeast of the city. The coordinates of an assumed site are: 43° 46' 55" N., 91° 50' 08" W. This site is 13.5 kilometers from the center of Lanesboro, on a bearing of 55.5° True. From this location, an educational facility on Channel 203 can easily serve Lanesboro with a predicted 3.16 mV/m signal. Attached as Figure 3 is an allocation map demonstrating that a full Class A facility on Channel 203 at the assumed site would not cause overlap with any existing FM assignments.

Because the above site is close to the predicted Grade B contour of TV Channel 6 station KAAL in Austin, Minnesota (see Figure 3), an antenna of vertical-only polarization, or one of mixed polarity, would be required to comply with the TV Channel 6 interference criteria of Section 73.525 of the FCC rules. From the above site, a vertically-polarized antenna at 100 meters HAAT, and operating at the full 6 KW, would comply with the TV Channel 6 requirements. Alternatively, a mixed-polarity antenna at 100 meters HAAT, operating with 6 KW in the vertical polarization and at least 450 watts in the horizontal polarization could be specified. In either case, the number of people predicted to receive interference on Channel 6, using the guidelines of Section 73.525, would be about 1,700, well within the maximum of 3,000 people.

Since these types of antennas are routinely built by all of the major antenna manufacturers in the United States, and are in fact presently being used by FM stations on the reserved non-commercial band, the TV Channel 6 requirements should not in the least impede a non-commercial broadcaster from constructing a station on Channel 203 in Lanesboro.



Engineering Statement - Page 3
Sparta-Tomah Broadcasting Company, Inc.

IF RESERVED CHANNELS ARE ASSIGNED AT WESTBY AND LANESBORO, CHANNEL 280A COULD THEN BE ASSIGNED TO COON VALLEY AND EYOTA, CREATING FOUR NEW ASSIGNMENTS INSTEAD OF ONLY TWO

Instead of assigning Channel 280A to Lanesboro as a non-commercial channel, this channel could be assigned as a commercial channel in Eyota, Minnesota, with a site restriction of 13.8 kilometers west of the city. Figures 4 and 5 demonstrate that Channel 280A may be allotted to Eyota, fully consistent with Section 73.207 of the FCC rules, and provide Eyota with a predicted 3.16 mV/m signal from the proposed reference coordinates.

Allotting Channel 280A to Coon Valley and Eyota would provide a first aural broadcast service to communities with a combined population of 2,265 people. According to the 1990 U.S. Census, Coon Valley and Eyota have populations of 817 and 1,448 people, respectively.

ASSIGNING CHANNEL 280A AT COON VALLEY AND EYOTA WOULD PROVIDE SERVICE TO FAR MORE PEOPLE THAN ASSIGNING THE CHANNEL TO WESTBY AND LANESBORO

A comparison of populations served with a predicted 1.0 mV/m signal between Bluff Country's Channel 280A proposal and the Channel 280A assignments proposed herein, conducted by this affiant, has revealed the following:

The proposed assignments of Channel 280A to Coon Valley and Eyota, assuming full Class A facilities at the proposed allotment sites, would provide a 1.0 mV/m signal to 113,442 and 122,581 people, respectively, for a total of 236,023 people. The proposed assignments of Channel 280A to Westby and Lanesboro, under equivalent assumptions, would provide a 1.0 mV/m signal to 27,785 and 25,287 people, respectively, for a total of 53,072 people.

Thus, the commercial assignments proposed herein would provide service to **over four times** as many people as Bluff Country's proposal. In fact, either one of the proposed allotments at Coon Valley and Eyota, considered alone, would provide service to **more than twice** as many people as both proposed allotments at Westby and Lanesboro, considered together.



Engineering Statement - Page 4
Sparta-Tomah Broadcasting, Inc.

CONCLUSION

Based on the above, it is the opinion of this affiant that the commercial assignment of Channel 280A to Coon Valley and Eyota would be a more efficient allocation of the FM band than non-commercial assignment of this channel to Westby and Lanesboro because:

- reserved noncommercial frequencies are available at both Westby and Lanesboro;
- assignment of Channel 280A to Westby may not comply with the city of license coverage requirement;
- assignment of Channel 280A to Coon Valley and Eyota would allow service to almost four and a half times as many people as if the channel were assigned to Westby and Lanesboro.

The Commission may allot Channel 280A to Coon Valley, and Bluff Country may apply for the non-commercial service it desires at Westby and Lanesboro, using the channels in the reserved band which are presently available for those communities.

ATTACHED FIGURES

Affidavit

Figure 1 - - - - - Channel 280A Coverage Study - Westby, WI

Figure 2 - - - - - Allocation Study - Channel 207A, Westby, WI

Figure 3 - - - - - Allocation Study - Channel 203A, Lanesboro, MN

Figure 4 - - - - - Allocation Study - Channel 280A, Eyota, MN

Figure 5 - - - - - Channel 280A Coverage Study - Eyota, MN

AFFIDAVIT

COUNTY OF OZAUKEE

SS:

STATE OF WISCONSIN }

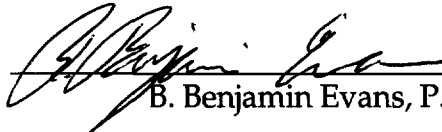
B. BENJAMIN EVANS, being duly sworn upon oath deposes and says:

That his qualifications are a matter of record with the Federal Communications Commission;


That he is a Consulting TeleCommunications Engineer, a Registered Professional Engineer in the State of Wisconsin, and a partner in the firm of Evans Associates;

That this firm has been retained by Sparta-Tomah Broadcasting Company, Inc. to prepare this engineering exhibit;

That he has either prepared or directly supervised the preparation of all technical information contained in this engineering statement, and that the facts stated in this engineering statement are true to the best of his knowledge, except statements that are herein stated to be based on information or belief, and as to such statements he believes them to be true.


B. Benjamin Evans, P.E.

Subscribed and sworn to before me this 30th day of October, 1997.


Notary Public

My Commission expires Oct 22, 2000

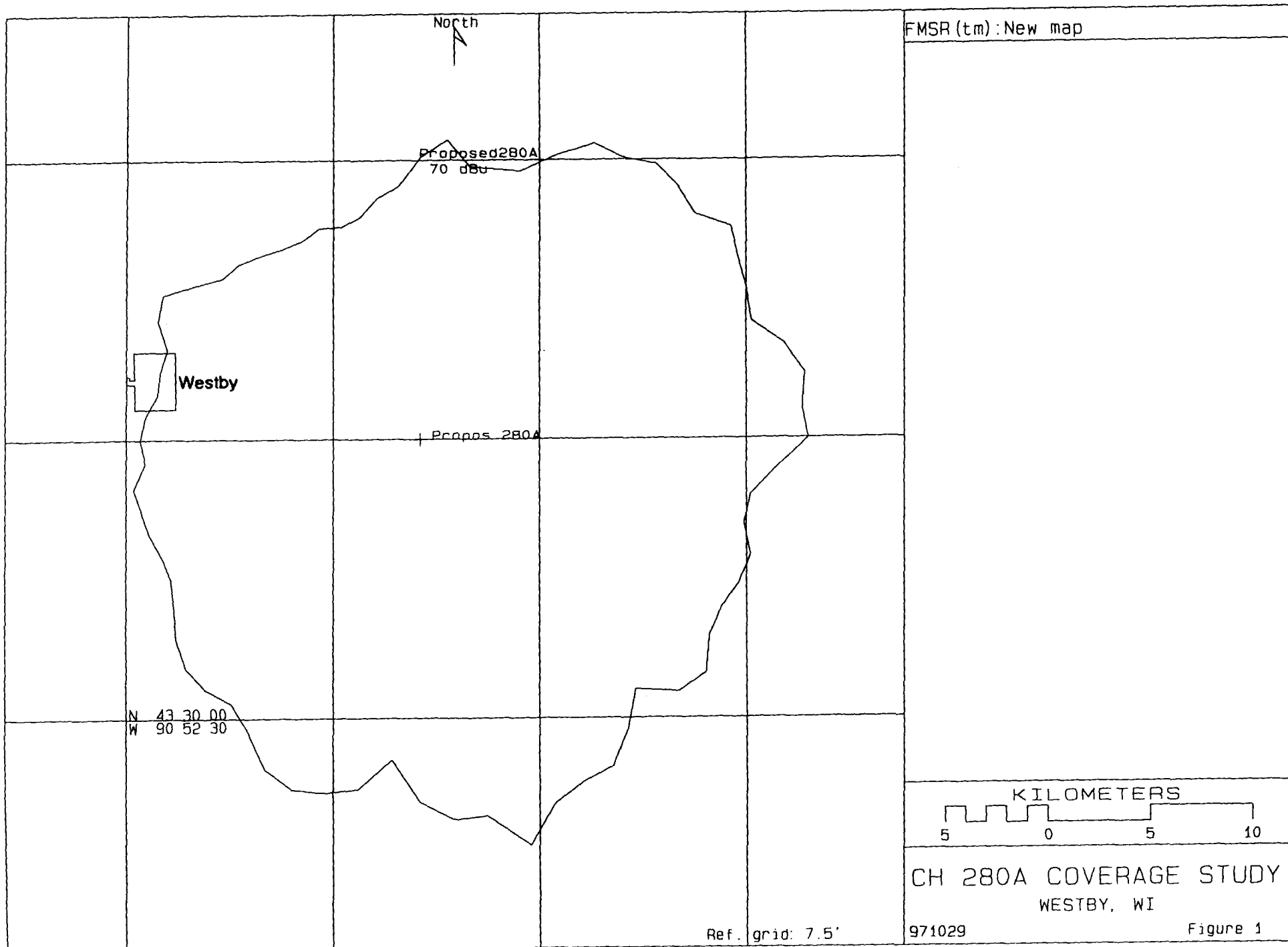
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This exhibit and the work it is based on represents our best interpretation of existing information, technical data, FCC Rules and policies, and policies and rules of other agencies. However, these data, rules and policies and their interpretation by the FCC or other agencies are constantly changing. Therefore, we do not warrant this work to be acceptable to the FCC or other agency, that any undertaking based on it will be successful, or that further submittals, administrative actions or litigation will not be required by others in support of this proposal or future undertaking. In the event of errors, our liability is strictly limited to replacement of this document with a corrected one. Liability for consequential damages is specifically disclaimed. Favorable action on this application by the FCC, FAA or other federal and state agencies is not guaranteed.

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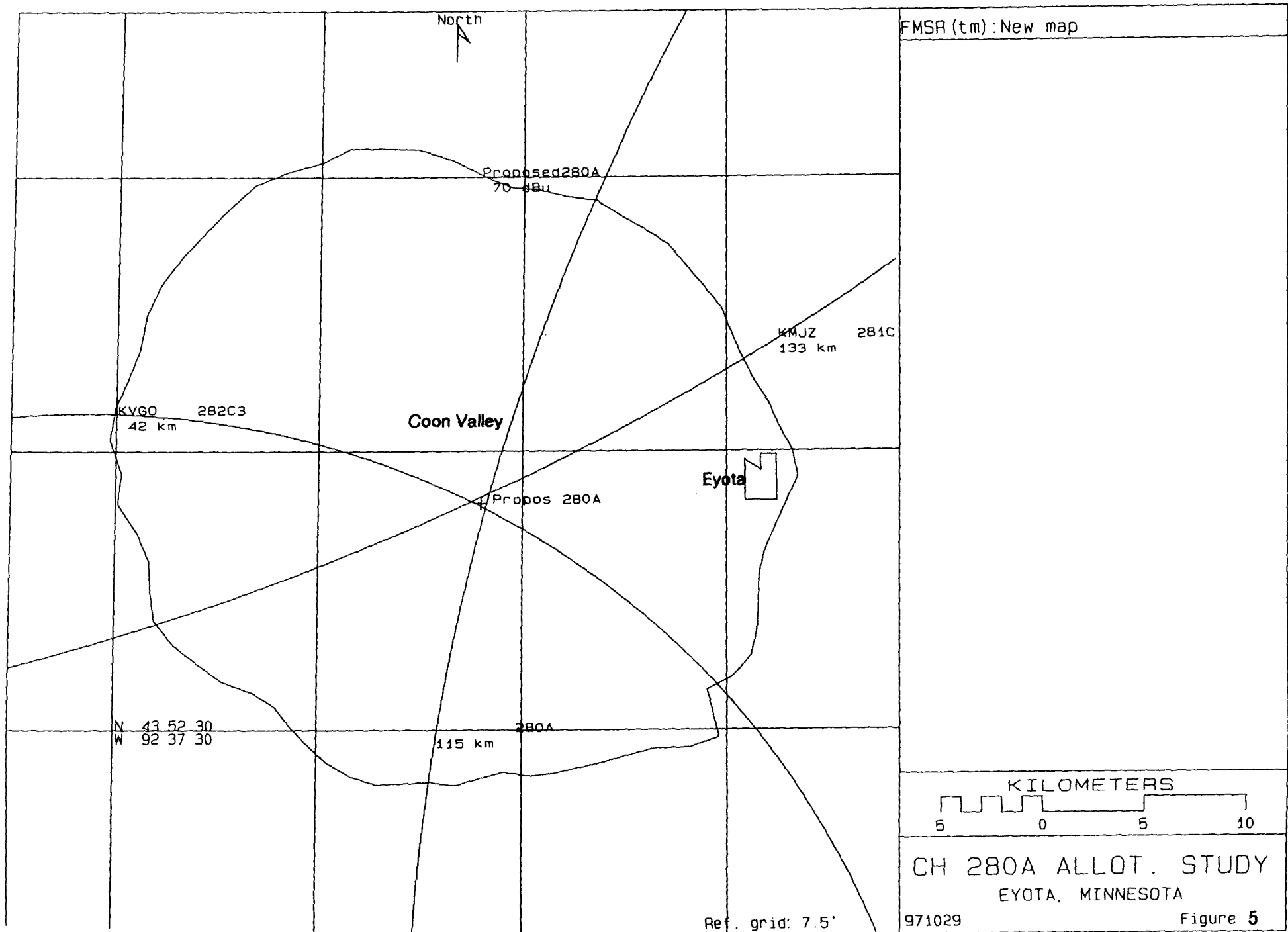


Evans Associates
210 S. Main Street
Thiensville, WI 53092
FM FREQUENCY ALLOCATION STUDY

Channel: 280A (103.9 MHz) 6 KW ERP
 Coordinates: 43 - 58 - 35 92 - 24 - 1 100 M HAAT
 Job Title: NEW - EYOTA MN Φ indicates 73.215 Facility
Cl.A Spacing: 73.207

CALL	Φ CITY	CH/CL-ZN	ERP-kw	HAAT-m	DA	LATITUDE	BEAR-to	DIST-km	RE
STATUS	STATE	FCC#	APPLICANT/LICENSEE	LONGITUDE	-from-°T	CLEAR-km	-km	-km	-km
KCZY	Osage	279A	6.0	47	43 19 20	206.9°	81.4	71.1	
LIC	IA	BLH930616KD	>James Ingstad Broadc	92 51 22	26.6°	+9.9			
KCZY	Osage	279A			43 19 20	206.9°	81.4	71.1	
DEL	IA	RM9087	>KVG0, Inc.	92 51 22	26.6°	+9.9			
WWIB	HALLIE	279C1	100.	207	45 6 35	37.5°	159.8	132.1	
LIC	WI	BMLH950914KC	>Stewards of Sound, I	91 9 43	218.3°	+27.3			
ADD	Coon Valley	280A			43 42 12	104.8°	115.6	114.1	
	WI	RM9121	>Sparta-Tomah Bcg Co.	91 0 48	285.7°	+1.1			
KMJZ	St. Louis Park	281C1	89.	315	45 3 30	334.7°	133.3	132.1	
LIC	MN	BLH960411KC	>Nationwide Communica	93 7 27	154.2°	+0.8			
KVG0	Spring Valley	282A	2.8	144	43 33 46	182.5°	46.0	30.1	
LIC	MN	BLH931201KC	>KFIL, Inc.	92 25 29	2.4°	+15.5			
KVG0	Spring Valley	282A			43 33 46	182.5°	46.0	30.1	
DEL	MN	RM9087	>KVG0, Inc.	92 25 29	2.4°	+15.5			
KVG0	Spring Valley	282C3			43 38 23	207.4°	42.2	41.1	
ADD	MN	RM9087	>KVG0, Inc.	92 38 30	27.3°	+0.6			

>> *** CHANNEL SUITABLE FOR ASSIGNMENT *** <<



CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of October, 1997, a copy of the foregoing document was placed in the United States mail, first class postage prepaid, addressed to the following:

David D. Oxenford
Fisher Wayland Cooper Leader &
Zaragoza, L.L.P.
2001 Pennsylvania Avenue, N.W.
Suite 400
Washington, D.C. 20006

Neil W. Miller